IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 33860 of 1997

Between:

1 K.Lakshmanarao, s/o. Chinnabbai,
R/o. Buttaigudem,W.G.Dist.
2 Smt. T.Ganga Ratnam, D/o. T.Subbarao,
R/o. Buttaigudem,W.G.Dist.
3 K.Narayana Rao Dora, S/o. Kannayya
R/o. Antannagudem,W.G.Dist.

... PETITIONERS

AND

1 The Commissioner of Tribal Welfare,
Samskar Bavan, Masabtank, Hyderabad.
2 The Project officer & Addl. Joint Collector, I.T.D.A.,
Kota Ramachandrapuram, West Godavari Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of Mandamus declaring the action of the 1st respondent in issuing the circular No.D3/10078/93 dt.11.10.1994 is arbitrary, illegal and violative of articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents herein to pay the annual increments to the petitioners from the date of their appointment.

Counsel for the Petitioners : MR. V.R.AVULA

Counsel for the Respondents : GP FOR SOCIAL WELFARE

The Court made the following :

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O R D E R :

This writ petition is filed by the petitioners aggrieved by the Circular No.D3/10078/93, dated 11-10-1994 under which the benefits of increments to which the Tribal Teachers are entitled from the date of their initial appointment are rejected in respect of the candidates who acquired Teacher Training Certificate (TTC) qualification after the date of issuance of the Circular.

2. According to the petitioners, they were appointed as Tribal Teachers in the scheduled areas with the basic qualification of X Class, pass or fail, in view of the relaxation granted by the Governmen`t, though the required qualification was Intermediate. The petitioners were appointed in the year 1986-87. Subsequently, they were sent for Teacher Training Certificate course and accordingly they have successfully completed the training and appeared for the examinations that were conducted in the month of June, 1988. But, unfortunately the results were not published till 6-12-1995. Though the petitioners were failed in the said examination in some of the papers, they have appeared in the Supplementary examinations that

were conducted in the month of October, 1996 and passed the said examination. Thus, they have acquired the requisite qualification. Further, it is the case of the petitioners that by virtue of G.O.Ms.No.302, Education, dated 10-7-1986, Tribal Teachers, who acquired Teacher Training qualification, are entitled for all the benefits, such as notional annual grade increments with effect from the date of their initial appointment. But, however, by virtue of the impugned Circular
dated 11-10-1994 such benefits were confined to those teachers who have acquired the Teacher Training qualification in the first attempt, while those who did not acquire the said qualification in the first attempt would be entitled to the above benefit only from the date of acquisition of the qualification. By virtue of the said Circular as the petitioners were denied the benefit of notional annual grade increments from the date of their initial appointment, they have come up with the present writ petition.

3. The grievance of the petitioners is that though they were appointed as Teachers in the year 1986-87, they were sent for training and after completion of the training, they have even appeared for the examinations held in the month of June, 1988, but for the reasons best known to the Education Department, the results were not published till December, 1995 and thereafter only the petitioners could appear in the supplementary examinations and could complete the course. According to the petitioners, there is no fault on their part, and therefore, the benefits cannot be denied to them. It is also their case that even the candidates who have been sent for the training and who have appeared for the examination after 1988, in which the petitioners have appeared and passed in supplementary examinations, were also granted the benefit of annual grade increment and other benefits even though they were qualified subsequent to the petitioners. But because of withholding of the results, the petitioners could not appear in the supplementary examinations and obtain the Teacher Training Certificate till 1996. Therefore, there is no fault on the

part of the petitioners and hence sought for a declaration that the denial of annual grade increments to them on par with other similarly placed persons is not proper and just.

4. A counter affidavit is filed on behalf of the second respondent admitting the fact that the petitioners were appointed as
un-trained teachers and they have also joined the duty on
30-10-1986. It is stated that the petitioners were also sent along with some other similar un-trained teachers to undergo TTC training at Government Teacher Training Institute, Eluru. Accordingly, after completion of the training they have appeared for the examinations held in June, 1988, but the results were not published by the Commissioner for Government Examinations and it is only after the clarification issued by the Government in G.O.Rt.No.2565, Education (Trg.II) Department, dated 3-11-1995 the results were published. It is further stated that the petitioners did not pass the examination in the first attempt and thereafter they have appeared in the supplementary examinations and passed the TTC course in the examinations held in October, 1996. By virtue of the Circular dated 11-10-1994 the petitioners are not eligible for sanction of notional annual grade increments from the date of their initial appointment, but they are entitled only from the date of their passing of the TTC course. Therefore, they were denied the notional increments. The learned Government Pleader also reiterated the same contentions and sought to dismiss the writ petition.

5. Heard learned counsel for the parties and considered the material available on record.

6. The issue in dispute in this writ petition is whether the petitioners are entitled for the benefit of annual grade increments from the date of their initial appointment, or

whether they are entitled only from the date of their acquiring the TTC qualification.

7. Admittedly, the petitioners were appointed as un-trained Teachers in the year 1986-87 as it was permissible in terms of G.O.Ms.No.302, dated 10-7-1986. Thereafter they were sent for Teacher Training course and after completion of the Teacher Training, they have appeared for the examinations in June, 1988. But unfortunately the results were not published till December, 1995. It is also the case of the petitioners that subsequent to the petitioners, number of batches have appeared for the examinations, both in the main examination as well as supplementary examinations, and those who passed even in the supplementary examinations were given the annual grade increments from the date of their initial appointment, but, however, the petitioners were denied such benefit on the ground that they have passed in the supplementary examinations that were conducted in October, 1996. In view of the Circular

dated 11-10-1994 the candidates who passed the TTC course in the first attempt alone are eligible for the benefit of annual grade increments from the date of their initial appointment. But with reference to those who passed in the supplementary examinations, they are entitled for the annual grade increments only from the date of passing the examination. But in the present case the difficulty was, admittedly, the petitioners have completed their training course and appeared for the examinations held in the month of June, 1988, but the results were not published till December, 1995 for no fault of theirs, may be the authorities were corresponding with the Government. Therefore, the petitioners cannot be blamed for not publishing the results of the petitioners till December, 1995. When the persons, who have appeared for the examination and passed even in the supplementary examinations subsequent to June,1988, were given the benefit of annual grade increments from the date of their inception, the denial of such benefit to the petitioners is clearly illegal as well as discriminatory. Had the results been published in the year 1988-89,

even if they could not complete in the first attempt, they would have appeared in the supplementary examination and would have passed the TTC course. But because of the action of the Government and the other authorities, like Director of School Education and that of the Commissioner for Government Examinations, who did not release the results, the petitioners should not be allowed to suffer. As admittedly, some other similarly placed candidates, who have even appeared for the examination subsequent to the petitioners and got the benefit of annual grade increments, while discriminating the petitioners by denying the same benefit because of the delayed publication of results of the examinations which were conducted in the month of June, 1988, is clearly illegal.

8. Under the above circumstances, the petitioners are entitled for the relief on par with the candidates who have appeared and passed the TTC examinations prior to the impugned Circular
dated 11-10-1994 i.e., the benefit of annual grade increments from the date of their initial appointment.

9. The writ petition is accordingly allowed to the extent indicated above. No costs.

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(S.ANANDA REDDY,J)

Dt.13-08-2004.

Msr.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Thirteenth Day of August, Two Thousand and Four.

To

1 The Commissioner of Tribal Welfare,
Samskar Bavan, Masabtank, Hyderabad.
2 The Project officer & Addl. Joint Collector, I.T.D.A.,
Kota Ramachandrapuram, West Godavari Dist.

3. 2CCs to Government Pleader for Social Welfare,

High Court of A.P., Hyderabad.

4. 2CD copies

HON'BLE SRI JUSTICE S.ANANDA REDDY

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Dt.13-08-2004.

(Msr)